

or chemicals. Machine sanding and use of propane or gasoline torches (open-flame methods) are not permitted. Washing and repainting without thorough removal or covering does not constitute adequate treatment. In the case of defective paint spots, scraping and repainting the defective area is considered adequate treatment.

(3) Prospective purchasers are provided all notifications described in § 35.5(a).

(b) The provisions of this subpart E shall be binding upon all Federal agencies as provided by section 302 of the Act; however, nothing contained in this part 35 shall preclude any Federal agency from promulgating such other procedures or additional requirements as may be necessary to implement the provisions of the Act.

[41 FR 28878, July 13, 1976, as amended at 51 FR 27789, Aug. 1, 1986; 52 FR 1891, Jan. 15, 1987; 53 FR 20799, June 6, 1988]

Subpart F—Prohibition Against the Use of Lead-Based Paint in Federal and Federally-Assisted Construction or Rehabilitation of Residential Structures

SOURCE: 42 FR 5043, Jan. 27, 1977, unless otherwise noted. Correctly designated at 42 FR 13112, Mar. 9, 1977.

§ 35.60 Scope.

The regulations of this subpart are promulgated to implement section 401 of the Lead-Based Paint Poisoning Prevention Act, as amended, which directs the Secretary of Housing and Urban Development to take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form. The regulations are applicable to all Federal agencies.

§ 35.61 Definitions.

The definitions contained in § 35.3 shall apply to this subpart F and in addition the following definitions are applicable to this subpart F:

(a) *Federal Agency* means the United States or any executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies or instrumentalities.

(b) *Agency Head* means the principal official of a Federal Agency and includes those persons duly authorized to act in his behalf.

(c) *Lead-based paint* as defined in section 501(3) of the Act as amended by Pub. L. 94-317 (42 U.S.C. 4801 et seq), the National Consumer Information and Health Promotion Act of 1976, means: (1) Any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or (2) with respect to paint which is manufactured after June 22, 1977 lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

§ 35.62 Federal construction; prohibition against use of lead-based paint.

No Federal agency shall, in any residential structure constructed or rehabilitated by such agency, use or permit the use of lead-based paint on applicable surfaces.

§ 35.63 Federally assisted construction; prohibition against use of lead-based paint.

(a) Each Agency Head shall issue regulations and take such other steps as in his or her judgment are necessary to prohibit the use of lead-based paint on applicable surfaces of any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to

which such federally assisted construction or rehabilitation is performed, prohibiting such use of lead-based paint, and shall include provisions for enforcement of that prohibition.

§ 35.64 Reports to the Secretary.

(a) To assist the Secretary in fulfilling her responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this subpart F, part 35.

(b) Each Federal agency shall submit such additional reports on its activities in the implementation of this part as may be deemed necessary by the Secretary.

§ 35.65 Authority for subpart B of these regulations.

On or after the effective date of these amended regulations, subpart F will serve as the authority for subpart B of these regulations.

Subpart G [Reserved]

Subpart H—Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

SOURCE: 61 FR 9082, Mar. 6, 1996, unless otherwise noted.

§ 35.80 Purpose.

This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated under a

contract to purchase or lease target housing.

§ 35.82 Scope and applicability.

This subpart applies to all transactions to sell or lease target housing, including subleases, with the exception of the following:

(a) Sales of target housing at foreclosure.

(b) Leases of target housing that have been found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program. Until a Federal certification program or federally accredited State certification program is in place within the State, inspectors shall be considered qualified to conduct an inspection for this purpose if they have received certification under any existing State or tribal inspector certification program. The lessor has the option of using the results of additional test(s) by a certified inspector to confirm or refute a prior finding.

(c) Short-term leases of 100 days or less, where no lease renewal or extension can occur.

(d) Renewals of existing leases in target housing in which the lessor has previously disclosed all information required under § 35.88 and where no new information described in § 35.88 has come into the possession of the lessor. For the purposes of this paragraph, renewal shall include both renegotiation of existing lease terms and/or ratification of a new lease.

§ 35.84 Effective dates.

The requirements in this subpart take effect in the following manner:

(a) For owners of more than four residential dwellings, the requirements shall take effect on September 6, 1996.

(b) For owners of one to four residential dwellings, the requirements shall take effect on December 6, 1996.

§ 35.86 Definitions.

The following definitions apply to this subpart.

The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.

Agent means any party who enters into a contract with a seller or lessor,